

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL DEANGELIS,

Plaintiff,

Civil Case No. 21-12722

v.

TOMAS COBB, *Grievance Coordinator*,
TIMOTHY SCHUBRING, *Facility Manager*,
TIFFANY KISOR, *Asst. Deputy Warden*,
MAJOR WASHINGTON,
JAMES KING, *Facility Units R.U.M.*,
ROBERT PULL, *Prisoner Unit Counselor*,
SIRENA LANDFAIR, *H.U.M. Medical Supervisor*,
KRISTIN AUSTIN, *Medical Supervisor*,
BRIAN STRICKLIN, *Medical Rn*,
J. SCHLEY, *Classification Supervisor*,
JEFFREY WHITE *Asst. Deputy Warden*,

Sean F. Cox
United States District Court Judge

Defendants.

ORDER ADOPTING R&R

Acting *pro se*, Plaintiff Michael DeAngelis filed this civil rights case on November 16, 2021, alleging violations of the Eight Amendment under 42 U.S.C. § 1983. (ECF No. 1). The action was assigned to Magistrate Judge Curtis Ivy for all pretrial matters. (ECF No. 13).

On July 27, 2022, Defendants Tomas Cobb, Timothy Schubring, Tiffani Kisor, Major Washington, Robert Pull, Sirena Landfair, Brian Stricklin, and Jeffrey White moved for summary judgment for failure to exhaust administrative remedies (“MDOC Defendants”). (ECF No. 34). On August 19, 2022, Defendant James King moved for summary judgment for failure to exhaust administrative remedies. (ECF No. 41). On September 19, 2022, Defendant Kristin

Austin moved for summary judgment for failure to exhaust administrative remedies. (ECF No. 45).

After the parties briefed their respective motions, on December 29, 2022, Magistrate Judge Ivy issued a Report and Recommendation (“R&R”) (ECF No. 58). In the R&R, Magistrate Judge Ivy recommends that Defendants’ motions for summary judgment be denied in part as to:

- The claim for denial of medical care related to COVID-19 conditions against all MDOC Defendants, Defendant King, and Defendant Austin. (ECF Nos. 34; 41; 45).
- The claim for denial of medical care related to stomach and kidney conditions as well as COVID-19 treatment to all MDOC Defendants. (ECF No. 34).
- The claim related to denial of medical care for secondhand smoke against all MDOC Defendants. (ECF No. 34).
- The claim for denial of medical care related to stomach and kidney conditions as well as COVID-19 treatment to Defendant Austin. (ECF No. 45).

(ECF No. 58 at 25).

Magistrate Ivy also recommends that summary judgment be granted as to DeAngelis’s “claim of failure to protect from gang violence against Defendants White, Cobb, Schubring, and Kisor.” *Id.* at 26.

Lastly, the R&R expressly advised the parties that any objections to the R&R must be filed within fourteen (14) days. *Id.*

Pursuant to Fed. R. Civ. P. 72(b), a party objecting to the recommended disposition of a matter by a Magistrate Judge must file objections to the R&R within fourteen (14) days after being served with a copy of the R&R. “The district judge to whom the case is assigned shall make a *de novo* determination upon the record, or after additional evidence, of any portion of the magistrate judge’s disposition to which specific written objection has been made.” *Id.*

The time for filing objections to the R&R has expired. The docket reflects that Jeffrey White and the MDOC Defendants did not file objections to the R&R. Therefore, with respect to those Defendants, the Court **ADOPTS** Magistrate Ivy's R&R.

The docket also shows that Plaintiff DeAngelis filed a motion to extend the deadline to file an objection to the R&R on January 23, 2023. (ECF No. 60). The Court granted DeAngelis's motion and extended his deadline to file objections to February 10, 2023. The Court attempted to notify DeAngelis it granted his motion by mailing him a copy of its Order. That Order was returned as undeliverable because DeAngelis has not kept the Court abreast of his current address. (ECF No. 64).

Per E.D. Mich. LR 11.2, and a Notice filed by this Court (ECF No. 3), all parties are obligated to notify the Court of any changes in address or contact information. DeAngelis has failed to do so. Further, as of March 1, 2023, the Court has not received an objection from DeAngelis. With respect to DeAngelis, the R&R is **ADOPTED**.

Lastly, the docket reflects that Defendant Austin filed a timely objection to Magistrate Judge Ivy's R&R on January 12, 2023. (ECF No. 59). Having reviewed those objections, the Court finds them to be without merit. The Court agrees with the analysis in Magistrate Judge Ivy's R&R and concludes that claims brought against Austin should not be dismissed for failure to exhaust. Accordingly, the R&R is also **ADOPTED** with respect to Defendant Austin.

In sum, Magistrate Ivy's R&R is **ADOPTED** in its entirety. The Court **ORDERS** that Defendants' motions for summary judgment are **DENIED IN PART**, as to **(1)** the claim for denial of medical care related to COVID-19 conditions against the MDOC Defendants, King, and Austin (ECF Nos. 34, 41, 45); **(2)** the claim for denial of medical care related to stomach and kidney conditions as well as COVID-19 treatment against all MDOC Defendants (ECF No. 34);

(3) the claim related to denial of medical care for secondhand smoke against all MDOC Defendants (ECF No. 34); and (4) the claim for denial of medical care related to stomach and kidney conditions as well as COVID-19 treatment against Defendant Austin (ECF No. 45).

The MDOC Defendants' motion for summary judgment is **GRANTED** with respect to the claim of failure to protect from gang violence against Defendants Jeffrey White, Tomas Cobb, Timothy Schubring, and Tiffani Kisor. (ECF No. 34).

IT IS SO ORDERED.

s/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: March 2, 2023